

1 Arby's and we just got robbed and the man ran out  
2 the door. So by then, when I'm telling him that,  
3 that's when the white jeep crunk up.

4 Q. Okay. I'm going to show you State's 10,  
5 and ask you if you recognize this.

6 A. That's the jeep.

7 Q. What is it?

8 A. The white jeep.

9 Q. You saw in the parking lot that night?

10 A. Uh-huh.

11 Q. And you heard this jeep crank while you  
12 were talking to the police officers?

13 A. Correct.

14 Q. And then what happened?

15 A. Then I pointed -- I was pointing toward  
16 the jeep, telling him, there he go. There he go.  
17 But I knew wasn't nobody else in the parking or  
18 whatever, and I had just heard the door shut. And  
19 I was pointing to him and by then he was taking off  
20 at a fast rate of speed. So the K-9 unit went  
21 behind him.

22 Q. So at that point, the jeep left the  
23 parking lot, and the police followed him?

24 A. Correct.

25 Q. Did you ever see him again after that?

1           A.     No.

2           Q.     Now, I want to go back for a little bit  
3         to when the fellow was inside the restaurant with  
4         the gun.

5           A.     Uh-huh.

6           Q.     What was he wearing?

7           A.     He was wearing a green hospital -- I call  
8         it a hospital -- a hospital suit, top and bottom.  
9         He had on a black netted mask. He had his eyes cut  
10        out and his mouth cut out. And the mask was  
11        fitting tight on his face.

12          Q.     Now, I'm going to show you State's 16.  
13         Do you recognize that?

14          A.     Yes.

15          Q.     What is it?

16          A.     The mask that he had on.

17          Q.     Do you recognize that from that night in  
18        particular?

19          A.     Uh-huh.

20          Q.     Why?

21          A.     Because that little cut right here,  
22         that's where -- because his mustache was heavy --  
23         and you could see his mustache sticking out a  
24         little bit. And he had the eyes and the nose cut  
25         out?

1           Q.     Okay.  Now, I'm going to show you  
2 State's 1.  Do you recognize anything about  
3 State's 1?

4           A.     Yes.

5           Q.     What?

6           A.     His shirt.  And all up in here.  You can  
7 see -- because with the mask on his face -- it was  
8 fitting tight on his face, so you can -- you  
9 couldn't picture his face, but you could kind of  
10 get an idea.  And then with his shirt, that's the  
11 same shirt, because he was a heavy set dude.

12          Q.     Was he wearing anything on his hands?

13          A.     Yes, he had on some gloves.

14          Q.     What kind of gloves?  Describe them for  
15 me.

16          A.     Like white -- white looking gloves, kind  
17 of like old looking.

18          Q.     I'm going to show you State's 22.  Do you  
19 recognize any of these?

20          A.     That was it.

21          Q.     Are you sure these were the gloves?

22          A.     Yeah.

23          Q.     Are do they look like the gloves?

24          A.     Them were similar to it, so -- I wasn't  
25 too much trying to pay too much attention to them

1 like that.

2 Q. Is there anything else you can remember  
3 about that night, Ms. Jackson?

4 MR. DURANT: Objection.

5 THE COURT: Sustained.

6 Q. Anything else, in particular, that stood  
7 out in your mind about the person that robbed you?

8 A. No. It just scared me, because it was --  
9 we were closed, and I just looked over the counter  
10 and --

11 MR. DURANT: Objection.

12 THE COURT: Sustained. That's not  
13 responsive. And disregard that last response.

14 MR. POWELL: Nothing further, Judge.

15 CROSS-EXAMINATION

16 BY MR. DURANT:

17 Q. Good afternoon, Mr. Jackson.

18 A. Good evening.

19 Q. I believe you testified that you came  
20 from the back room; is that correct, when you first  
21 realized that the store was being robbed?

22 A. Correct, come from the dish -- from the  
23 drainer, correct.

24 Q. Pardon me?

25 A. Coming from the drainer in the back of

1 the store.

2 Q. You had cleaned up the bathroom; is that  
3 correct?

4 A. Correct.

5 Q. Both of them, men and women?

6 A. Correct. I mopped.

7 Q. You mopped?

8 A. Correct.

9 Q. So you spent some time in the bathroom?

10 A. Correct.

11 Q. Did you see anything untoward, anything  
12 that was out of place --

13 A. No.

14 Q. -- in the bathroom?

15 A. No.

16 Q. You didn't see any debris on the floor or  
17 anything like that, did you?

18 A. No.

19 Q. Do you recall looking up at the ceiling?

20 A. No.

21 Q. But if there was a hole in the ceiling,  
22 it would draw your attention; isn't that fair to  
23 say?

24 A. I never did -- when I went in the  
25 bathroom, because, when I'm closing, I like to work

1 fast. So I went in the bathroom, and I mopped --

2 Q. And your eyes were --

3 A. Oh, I mopped good.

4 Q. Your eyes were down?

5 A. Say what?

6 Q. Your eyes were looking down to the floor?

7 A. Yeah. I never did look up.

8 Q. Okay. So you don't know if there was a  
9 hole up there or not?

10 A. Not at the time.

11 Q. Okay. At some point in time, did you  
12 discover that there was a hole?

13 A. Yes.

14 Q. After the police got there?

15 A. Yes.

16 Q. Was it obvious to you after the police  
17 got there that there was a hole?

18 A. Yeah. If you would have looked up and  
19 paid attention, you probably would have --

20 Q. About how high is that ceiling? Do you  
21 know?

22 A. It's not too high. But it's -- it wasn't  
23 a big hole. It was just probably like some of the  
24 roofing probably needed repair or something like  
25 that.

1           Q.     Okay.  But it -- it has to be somewhat  
2 large for a person --

3           A.     (Witness nods.)

4           Q.     For an adult to get up in there and hide;  
5 isn't that --

6           A.     You're right.

7           Q.     Would you agree?

8           A.     Correct.

9           Q.     And is it your testimony that as you were  
10 coming from the bathroom that you just -- that you  
11 observed what was going on up front?

12          A.     As I was leaving the bathroom, I was  
13 walking towards the back to pick up my mop bucket.  
14 But when I came back from the back coming to my  
15 grill station to finish cleaning that off, that's  
16 when I looked up at the counter and --

17          Q.     I see.  And you saw -- and you said that  
18 the person who had the gun looked at you at the  
19 same time, right?

20          A.     Yes.

21          Q.     And then came and got you?

22          A.     Correct.

23          Q.     And -- this person had you to kneel,  
24 right?

25          A.     Correct.

1           Q.     And during this time, Ms. Atkins was  
2         trying to open up the safe; is that correct?

3           A.     He had her kneeled down too.

4           Q.     Pardon me?

5           A.     Correct, he had her kneeling down also.

6           Q.     When did the third employee come up  
7         there?

8           A.     After he had came and brought me down,  
9         kneeled me down, then she walked around.

10          Q.     Okay. And then she realized what was  
11         happening?

12          A.     Yeah. He met her.

13          Q.     Okay. There came a time that the safe  
14         was opened, right?

15          A.     Correct.

16          Q.     And you -- you -- you were the one who  
17         stuffed the bags; is that correct?

18          A.     He -- basically, he had all of us  
19         stuffing the bags --

20          Q.     Yeah.

21          A.     -- because he was rushing.

22          Q.     Uh-huh.

23          A.     He was rushing. He had us stuffing the  
24         bags. But, mainly, it was like he was -- yeah,  
25         basically, had me stuffing the bags.

1           Q.     How many bags were there?  Do you recall?

2           A.     No.

3           Q.     After he finished stuffing the bags, then  
4     he took you or the two of you just walked to the  
5     back?

6           A.     Huh-uh, he grabbed me up.

7           Q.     Grabbed you up?

8           A.     Correct.

9           Q.     And then walked to the back?

10          A.     (Witness nods.)

11          Q.     And you were the one who -- removed the  
12     bar; is that correct?

13          A.     As I was lifting towards the bar, he  
14     grabbed the bar and pushed the bar off the door.

15          Q.     Okay.  And then he left?

16          A.     Correct.

17          Q.     How long was it before you went out the  
18     back door -- did you go out the back?

19          A.     I did not go out the back.

20          Q.     You did not go.  You came back into the  
21     store?

22          A.     I never did go out the door.  He pushed  
23     me in the store, and he went out the back door.

24          Q.     Okay.  And -- and you -- at some point in  
25     time, you went outside; isn't that correct?

1           A.     Correct.

2           Q.     Did you go out of the same back door?

3           A.     No.

4           Q.     The front door, the side door?

5           A.     The front door.

6           Q.     The front door. So you came back into  
7     the store?

8           A.     (Witness nods.)

9           Q.     And you went out the front door?

10          A.     Correct.

11          Q.     About how many times -- about how much  
12     time had past -- can you estimate -- from the time  
13     he left until the time you went out there?

14          A.     I can't say a time. I wasn't really  
15     trying to time. I was just reacting because it  
16     was --

17          Q.     I understand. Did -- when you first went  
18     outside, did you see a white jeep?

19          A.     No, not when I first went outside.

20          Q.     Okay. The side that you went out, is  
21     that the same side of the drive --

22          A.     No.

23          Q.     Okay. So --

24          A.     It's on the opposite side.

25          Q.     I see. Did there -- and when you first

1       went out, you immedately saw an officer; is that  
2       correct?

3           A.     No.

4           Q.     Okay. How long was it before you saw an  
5       officer?

6           A.     After I had ran into the back of the  
7       store --

8           Q.     Uh-huh.

9           A.     -- then I came and -- came back the same  
10      way and ran to the other side of the store.

11          Q.     And let me stop you there. When you  
12      went -- when you went to the other side of the  
13      store, did you see a jeep then?

14          A.     Yes. Jeep, van --

15          Q.     Did you see --

16          A.     There was plenty of cars in the parking  
17      lot.

18          Q.     There were plenty cars?

19          A.     Uh-huh.

20          Q.     How many?

21          A.     About -- I would say probably six. I  
22      don't know exactly. I wasn't counting it. But  
23      probably about six.

24          Q.     About six cars?

25          A.     Yeah.

1 Q. Do you drive?

2 A. Yes.

3 Q. Was one of those cars yours?

4 A. No. It was in the parking lot next to  
5 Arby's. They was in a whole another parking lot.

6 Q. Okay. And where was the jeep, the jeep  
7 was in the other parking lot?

8 A. Correct.

9 Q. With the other five or six cars?

10 A. Correct.

11 Q. Do you know -- what was it that made the  
12 jeep stand out among the six cars?

13 A. Well, after I heard the door shut,  
14 because it was -- wasn't nobody outside but us,  
15 because it was closing time -- I thought it was a  
16 door shut and the K-9 unit supposed to -- I guess  
17 he seen me talking to the K-9 unit, so that's when  
18 he crunk up the vehicle.

19 Q. But you never saw the -- you never saw  
20 this person who left the store with the scrub top,  
21 you never saw that person enter the jeep?

22 A. No.

23 Q. What is the business next door to the  
24 Arby's?

25 A. If I'm not mistaken, it's a cleaners and

1 some more business over there. But I know it's a  
2 cleaners over there too.

3 Q. Okay. So you don't know for what reason  
4 those cars were parked out there?

5 A. They were just parked. They be out there  
6 every night. If they -- some of them are for sale.

7 Q. I see. So there's a used car lot or  
8 something like that out there?

9 A. No, it's not a car lot. It's just -- you  
10 know how people park their cars in business areas  
11 and stick a for sale sign on there.

12 Q. Uh-huh.

13 A. It was something like that.

14 Q. I see. And that was a routine thing that  
15 they did next door.

16 A. I had -- well, see, I just started  
17 working there a month, so I don't know how long it  
18 had been there. But that night, those cars were  
19 parked out there.

20 Q. And you say all the cars that were parked  
21 out there were for sale?

22 A. No, I don't know exactly for sure or not.

23 Q. But you know at least a couple of them  
24 out there?

25 A. Yeah.

1 Q. Okay. How long have you been working at  
2 the store?

3 A. At that time?

4 Q. Uh-huh.

5                   A. Probably about a month -- maybe not even  
6                   a month.

7 Q. Okay. How old are you?

8 A. Twenty.

9 Q. Have you ever been convicted of anything?

**A. Say what?**

Q. Have you ever been convicted of any --

12 A. No. I've been arrested though.

13 Q. Okay. For what?

14 MR. POWELL: Objection, Your Honor.

15 Relevant.

16 THE COURT: Sustained. Come up here  
17 and let me --

18 (Bench conference was held.)

**CROSS-EXAMINATION (continued)**

20 | BY MR. DURANT:

Q. You went back toward -- you heard a car crank up, right?

23           A. Yes, after the K-9 unit was there, that's  
24 when the car crunk up.

Q. Okay. About how long -- if you can.

1       about how long after the person left the back door  
2       and the time that you heard a car crank up, about  
3       how long a time --

4           A.     It probably --

5           Q.     -- was that?

6           A.     It probably wasn't -- it probably wasn't  
7       a good minute.

8           Q.     A minute?

9           A.     It probably wasn't a good minute --

10          Q.     Oh.

11          A.     Because everything was happening so fast  
12       and quick.

13          Q.     Okay. And when you were talking to the  
14       K-9 unit, did you see where the jeep was going?

15          A.     Say what?

16          Q.     When you were talking to the officer with  
17       the K-9 unit, did you see where the jeep went --  
18       did you see where it was headed?

19          A.     It was headed out the parking lot,  
20       because the jeep was backed up in the parking lot.

21          Q.     I see. And it left?

22          A.     Correct.

23          Q.     Did the -- did the officer follow that  
24       jeep?

25          A.     Correct.

1           Q.     Okay. You were -- you said that you were  
2     able to observe that individual. Could you --  
3     could you make -- did there -- did they perform or  
4     conduct a photo I. D. with you that evening?

5           A.     No.

6           Q.     Did the police officers bring six  
7     pictures in and say --

8           A.     No.

9           Q.     Okay. They didn't do that. Did they  
10    take a statement from you?

11          A.     Correct.

12          Q.     Could you identify that individual, who  
13    was in the store, that night?

14          A.     Correct.

15          Q.     You can?

16          A.     Yes. The same on that picture.

17          Q.     On that picture?

18          A.     Correct.

19          Q.     Okay. Is that the same person sitting  
20    there?

21          A.     Correct.

22          Q.     And the person had on a mask -- had on  
23    this mask?

24          A.     Correct.

25          Q.     And you could identify him as the same

1           person who was in the store that night?

2           A.     As body wise?

3           Q.     No. I'm talking about facial features.

4           Could you look at that gentleman and say that's the  
5           gentleman that was in the store that night?

6           A.     Well, the mustache --

7           Q.     Well, I'm not asking you that. I'm  
8           asking you, could you identify -- can you say  
9           that's the man who was in the store that night?

10          A.    That -- that's the man, yeah.

11          Q.    You saw his face?

12          A.    I didn't see his face.

13          Q.    So how did --

14          A.    I saw his face with the mask on.

15          Q.    But you could tell it was him through it?

16          A.    Correct.

17          Q.    Okay. Did you tell the officers that?

18          A.    I told -- this is what I told the  
19           officer. I told the officer that he had the mask  
20           on his face. The mask was fitting tight, so,  
21           therefore, you can -- you couldn't actually see his  
22           face, but --

23          Q.    Let me ask you this: Did you, in fact,  
24           tell the officer that you could not identify the  
25           person because of the face -- because of the mask?

1           A.     Correct.

2           Q.     So how is it that today you come into  
3     court and you say that's the man when you told them  
4     already you couldn't?

5           A.     Okay. This is what I was saying.

6           Q.     You don't have to answer it. I'm  
7     through.

8           A.     Thank you.

9                 MR. POWELL: Go ahead, Mr. Jackson.

10              THE WITNESS: I'm excused?

11              MR. POWELL: No.

12              THE WITNESS: Oh.

13              REDIRECT EXAMINATION

14            BY MR. POWELL:

15            Q.     Body wise, do you recognize the  
16     individual in the courtroom today?

17            A.     Correct.

18            Q.     Okay. The person in this photograph, do  
19     you recognize the shirt he's wearing?

20            A.     Correct.

21            Q.     Do you recognize the mustache?

22            A.     Correct.

23            Q.     Could you see the mustache through the  
24     mask?

25            A.     Correct.

1 Q. Was the mask covering up the shape of his  
2 body?

3 A. No.

4 Q. Was the mask covering up the color of his  
5 shirt?

6 A. No.

7 Q. Was the mask covering up the fact that he  
8 was wearing a scrubs hospital shirt?

9 A. No.

10 Q. Was the mask covering up the fact that he  
11 held a gun to your head?

12 | A. No.

13 Q. Or the fact that he was wearing a --  
14 driving a white jeep?

15 A. No.

16 MR. POWELL: Nothing further, Judge.

17 MR. DURANT: No further questions.

18 THE COURT: Okay. You can step down  
19 and you're excused.

20 (Witness excused.)

THE COURT: It will probably be a good time for us to take a break. I'm going to give us a fifteen-minute break. We'll get you at three o'clock in the jury assembly room. So you're excused until -- and we're not locking y'all in,

1 we're just trying to keep people from coming in and  
2 out. So the door may be --

3 (Brief recess was taken.)

4 (In the presence of the jury.)

7 | CORPORAL E. L. JOHNSON

8               The witness, having first been duly sworn or  
9       affirmed to speak the truth, the whole truth, and  
10      nothing but the truth, testified as follows:

11 MR. POWELL: Are we ready, Judge?

12 THE COURT: Yes.

13 MR. POWELL: Everybody settled?

14 (Jurors nod.)

15 DIRECT EXAMINATION

16 BY MR. POWELL:

17 Q. Okay. Could you state your name for the  
18 jury?

19 A. Yes, Corporal E. L. Johnson.

Q. And how are you employed. Corporal?

21                   A. I'm employed with the City of Montgomery  
22 Police Department.

Q. And what is your official capacity with  
the police right now?

25 A. I'm assigned to the K-9 Division with the

1           K-9 Bureau. I ride around basically with a K-9  
2 partner answering calls.

3           Q. What is your partner's name?

4           A. Partner's name is Jethro.

5           Q. And is that the same partner you had back  
6 in April?

7           A. Yes, sir.

8           Q. And did you and Jethro respond to this  
9 scene over at the Arby's off of the Atlanta  
10 Highway?

11          A. Yes, sir.

12          Q. Now, were you called over there or were  
13 you just in the vicinity?

14          A. No, sir. I was in the vicinity traveling  
15 westbound on Atlanta Highway. As you pass Arby's,  
16 there's a shopping center right down -- right next  
17 to Arby's. As I'm passing, I look over to the  
18 right and I see a subject running with -- holding  
19 something in his hand like this, walking very fast  
20 across the parking lot. I thought that maybe a  
21 business had been broken into in the area, so I  
22 turned around to go back in to see who that subject  
23 was and what his business -- what his purpose was  
24 in that business area.

25          Q. Okay. And I want to go into all of that

1           Q.    Okay.  Now, I want to go back to your  
2 observation of this individual coming out carrying  
3 something.  What did you do?

4           A.    I observed him, and I turned around on  
5 Atlanta Highway and traveled back eastbound to turn  
6 around to get back into the parking lot to see what  
7 his business -- what his purpose was there.  As I  
8 turned into the parking lot, I lost sight of him.  
9 So I thought that he had seen me, thinking, you  
10 know -- or -- well, I lost sight of him.  So I  
11 drove back behind the business to see if he had ran  
12 back to the back, thinking that a burglary had  
13 occurred.  As I turn around and come back out, I  
14 had an employee from Arby's hollering at me, Hey,  
15 he's in the white truck.  He's in the white truck.  
16 He's in the white truck.  So then I exit the  
17 parking lot going westbound on Atlanta Highway in  
18 attempt to catch up to the white vehicle.

19           Q.    Okay.  Were you -- and you were following  
20 a white truck?

21           A.    Yes, sir.

22           Q.    Okay.  What kind of truck was it?

23           A.    It was a Jeep Cherokee -- Grand Cherokee,  
24 white in color.

25           Q.    I'm showing you State's 10.  Do you

1 recognize that?

2 A. That's the vehicle.

3 Q. Is that the truck you were following that  
4 night?

5 A. Yes, sir.

6 Q. That Jeep Cherokee in State's 10?

7 A. Yes.

8 Q. Is that a fair and accurate photograph of  
9 it?

10 A. Very, yes, sir.

11 MR. POWELL: Offer State's 10,  
12 Judge.

13 THE COURT: Admitted.

14 (State's Exhibit No. 10 was admitted  
15 into evidence.)

16 Q. Eventually, did you stop this jeep?

17 A. Eventually the jeep was stopped, yes,  
18 sir.

19 Q. And you were involved in that?

20 A. I was involved in that, yes, sir.

21 Q. Now, if -- with the Court's permission,  
22 could you step down for me, Officer? I want to go  
23 to the map.

24 A. (Witness complies.)

25 Q. Now, show me where this Arby's is.

1           A. Okay. The Arby's is right here next  
2 to -- well, this is Eastdale Mall. The Arby's is  
3 right here on Atlanta Highway.

4           Q. And that's indicated with a red push pen?

5           A. Yes, sir.

6           Q. Okay. Where did you follow the jeep?

7           A. I picked him up right here at the red  
8 push pin. Right next to Arby's is the little strip  
9 mall area right here. I picked him up leaving from  
10 that parking lot. I got behind him on Atlanta  
11 Highway, and I followed him westbound on Atlanta  
12 Highway.

13          Q. Then where did he go?

14          A. Then we went on to the Eastern  
15 Boulevard -- or correction -- Northern Boulevard up  
16 northbound. We then got onto -- excuse me one  
17 second. I have to look -- excuse me one second.  
18 That's Waresferry. Okay. We got up to Oliver  
19 Road. We took a right -- I'm sorry -- We took a  
20 right on Oliver Road. I followed the vehicle up to  
21 Plantation Way. We then took a right on Plantation  
22 Way, took a left on Commerical Park or -- it's  
23 Commerical -- Lagoon Commercial Boulevard -- excuse  
24 me. I followed the vehicle down there and took a  
25 left back onto the boulevard again -- the Northern

1 Boulevard.

2 Q. Now, let me stop you right here. At this  
3 point, is he running from you, or what's going on?

4 A. I am following --

5 MR. DURANT: Objection.

6 THE COURT: I'm going to sustain as  
7 to the form. Just ask what he was doing, not  
8 what --

9 Q. Okay. Describe the nature of the pursuit  
10 to the jury.

11 A. Okay. At this time, I am not technically  
12 in pursuit. I do not have my lights activated. I  
13 am following this vehicle to determine what kind --  
14 if a crime had been committed, what kind of crime.  
15 We have units en route to the Arby's -- to the area  
16 to determine what has actually happened. We have  
17 not received any kind of call or any kind of  
18 indication what is going on from there. We're  
19 following this vehicle at a distance -- you know,  
20 at a safe distance. I maintain visual contact on  
21 him at all times. But he is speeding away from me,  
22 and I am trying to catch up with him so I can keep  
23 visual contact on him.

24 Q. Okay. Now go back. Where were we?

25 A. I think we were at Plantation Way

1 Boulevard.

2 Q. Okay. We get back on the boulevard.

3 A. All right. We're on the boulevard.

4 We're traveling southbound. We take a right on the  
5 Plantation Way, like you're going to Lagoon Park.

6 At that time, the patrol units -- I'm on the radio  
7 with the dispatcher explaining to them what's going  
8 on and why I'm following this vehicle.

9 Q. At any point, did they ever confirm that  
10 some type of crime had been committed?

11 A. Not at this point -- or just about at  
12 this point. I can't remember exactly. But I know  
13 it was pretty close to this point. We had patrol  
14 units going to the restaurant to determine what  
15 actually happened.

16 At this point where I take a right on Lagoon  
17 Park Drive, there are two patrol units right here  
18 at the light and they're waiting on me to come --  
19 to take over, basically, to initiate the traffic  
20 stop. As we turn onto Lagoon Park Drive, I slow  
21 down enough so the patrol units can pass me and  
22 catch up with the vehicle. At that time, they  
23 activated emergency --

24 THE COURT: Wait just a minute.

25 THE WITNESS: I'm sorry.

1                   **THE COURT:** Mr. Powell, he's talking  
2 fast and in that direction, so if you would --

3                   **THE WITNESS:** What do I need to  
4 repeat, ma'am?

5                   **MR. POWELL:** I'll go back --

6                   **THE COURT:** If you'll just -- you  
7 need to slow down and -- it's hard for her to take  
8 it down when you just -- when you're narrative.

9                   **THE WITNESS:** All right. I'm sorry.

10                  **Q.** Now --

11                  **A.** We'll pick it up --

12                  **Q.** You slow down so the patrol units can get  
13 out in front?

14                  **A.** Yes, sir.

15                  **Q.** What happens next?

16                  **A.** At that time, the patrol units pass my  
17 vehicle, initiate their emergency equipment to stop  
18 the vehicle.

19                  **Q.** Okay. We've got two patrol units?

20                  **A.** Two patrol units.

21                  **Q.** Lights --

22                  **A.** Lights flashing. Yeah, this is regular  
23 police cars, black and white with the red and blue  
24 lights on top.

25                  **Q.** Does he stop?

1 A. No, sir, he does not.

2 Q. What does he do?

3 A. He speeds off from the patrol units.

4 And, at that point, the pursuit begins.

5 Q. Now, where are you when you say the  
6 pursuit begins?

7 A. We are right at -- the softball complex  
8 at Lagoon Park, we are in that area.

9 Q. I'm going to add -- put this where it  
10 goes on that there.

11 A. (Witness complies.)

12 Q. Do you recognize this addition that we've  
13 added to the map here?

14 A. Yes, sir.

15 Q. Does that seem to be fair and accurate --

16 A. Yes.

17 Q. -- although, it's not to scale?

18 A. Yes, sir.

19 Q. And does this show where the boulevard  
20 comes around to Congressman Dickinson -- show them  
21 Congressman Dickinson.

22 A. Congressman Dickinson is this strip right  
23 here. It's this road area right here.

24 Q. And point out Lagoon Park and Gunter Park  
25 Boulevard -- Road.

1           A.    Okay. Lagoon Park Drive is right here.

2           Gunter Park Drive is right here. All this area  
3           right here is Gunter Park Drive.

4           Q.    Okay. Now, where does he go now that the  
5           patrol units are chasing him?

6           A.    The patrol units are chasing him. He  
7           continues going on on Lagoon Park Drive, takes a  
8           right on Gunter Park Drive and drives northbound  
9           all the way up to Congressman Dickinson and then  
10          takes a right on Congressman Dickinson up to the  
11          Northern Boulevard, takes a right back onto  
12          Northern Boulevard. And we continue to follow him  
13          around Northern Boulevard --

14          Q.    Okay. Let me stop you right there --

15          A.    Okay.

16          Q.    -- before we go into where he was at  
17          Northern Boulevard. As y'all were chasing kind of  
18          through Gunter Park area here --

19          A.    Yes, sir.

20          Q.    -- are y'all maintaining constant visual  
21          of him the entire time around all those curves and  
22          everything?

23          A.    The patrol units were ahead of me.

24          Q.    Uh-huh.

25          A.    My truck is not -- let's -- you know, the

1 patrol units are designed to pursue a type  
2 vehicle --

3 MR. DURANT: Objection, Judge.

4 THE COURT: Okay. Sustained.

5 Q. I'll ask the patrol units about it. But  
6 I'm talking about your truck.

7 A. My truck is not able -- I'm -- I can keep  
8 in sight. I can keep the patrol units and the  
9 vehicle in sight, but I am not that close to them,  
10 because they're pulling away from me.

11 Q. You're bringing up the rear?

12 A. I'm bringing up the rear.

13 Q. Okay. Now, we go up -- we're out at  
14 Gunter Park where Congressman -- we're over on  
15 Northern Boulevard.

16 A. North Boulevard.

17 Q. Now, where do we go?

18 A. We continue following the vehicle around  
19 Northern Boulevard. We come back to Lagoon  
20 Commerical Center Drive here.

21 Q. He's kind of backtracking?

22 A. We're backtracking again. We take a left  
23 on Commercial -- Lagoon Commercial Center Boulevard  
24 all the way back to Plantation Way. And then we  
25 take another left onto Oliver Road, and then he

1       takes a right on Hackle Drive. And, at that point,  
2       patrol units are coming in from the boulevard on  
3       Hackle Drive back this way, and he drives up off of  
4       the road. And, at that time, we take him into  
5       custody.

6           Q. So he never actually stopped for the  
7       patrol units?

8           A. No, sir.

9           Q. Until y'all blocked him in?

10          A. Yes, sir.

11          Q. Okay. Thank you. Have a seat.

12          A. (Witness complies.)

13          Q. And just so we're clear. This other red  
14       push pin is where y'all -- approximately where  
15       y'all stopped him?

16          A. Yes, sir.

17          Q. Did you actually take the defendant into  
18       custody?

19          A. No, sir.

20          Q. I'm going to show you State's 11. Is  
21       that a photograph of the vehicle, approximately,  
22       where y'all stopped it?

23          A. Yes, sir.

24          Q. Is it fair and accurate?

25          A. Yes, sir.

1                   **MR. POWELL:** Your Honor, we offer  
2 State's 10 and 11.

3                   **THE COURT:** Admitted.

4                   (State's Exhibits No. 10 and 11 were  
5 admitted into evidence.)

6                   **Q.** Did you search the vehicle?

7                   **A.** No, sir.

8                   **Q.** Did -- someone did, though?

9                   **A.** Yes, sir.

10                  **Q.** At the time y'all stopped the vehicle,  
11 did you see who got out of it?

12                  **A.** Out of the vehicle?

13                  **Q.** Yes.

14                  **A.** It was the defendant, yes, sir.

15                  **Q.** Okay. Do you see him in the courtroom  
16 here today?

17                  **A.** Yes, sir.

18                  **Q.** Would you point him out for the jury?

19                  **A.** He's the guy here in the blue shirt  
20 behind the desk.

21                  **Q.** Okay. Now, I'm going to show you  
22 State's 1. Do you recognize that?

23                  **A.** Yes, sir.

24                  **Q.** Is that the way -- who is that?

25                  **A.** That is the defendant there.

1 Q. Is that the way he looked on the night  
2 you saw him in the white jeep?

3 A. Yes, sir.

4 Q. Is that what he was wearing?

5 A. Yes, sir.

6 Q. Is that what his facial hair looked like?

7 A. Yes, sir.

8 Q. Is that picture fair and accurate of the  
9 way you saw him on the night in question?

10 A. Yes, sir.

11 MR. POWELL: We offer State's 1,  
12 Judge.

13 THE COURT: Admitted.

16 Q. Now, you're not the one who actually  
17 searched the vehicle once y'all had it stopped,  
18 correct?

19 A. No, sir.

20 Q. Did anyone ever approach the vehicle or  
21 tamper with it or anything -- basically, did you  
22 secure the vehicle there?

23                   A.     The officers on the scene -- I had --  
24     when I -- when we, I guess, boxed in the suspect, I  
25     got my K-9 partner out in case the subject was to

1           A. Yes, sir.

2           Q. Do you know how long -- how long a  
3         distance it is to -- up to the time you were joined  
4         by the other officers?

5           A. How long a distance?

6           Q. Yes.

7           A. No, sir, I do not.

8           Q. But that's a good ride, isn't it?

9           A. It's a good ride, yes, sir.

10          Q. And when you were following the white  
11         jeep, was it speeding?

12          A. Yes, sir.

13          Q. It was going about the speed limit?

14          A. It was going above the speed limit, yes,  
15         sir.

16          Q. Okay. But is it fair to say that the  
17         person in the jeep had no way of knowing that you  
18         were a police officer?

19          A. Yes, sir.

20          Q. That's fair?

21          A. Yes, sir.

22          Q. About how far were you behind the -- the  
23         white Cherokee Jeep? How far were you behind?

24          A. Approximately, two to three vehicles  
25         behind.

1 Q. Two or three?

2 A. Yes, sir.

3 Q. Other than the -- other than the  
4 speeding, was the individual observing the other  
5 traffic requirements, like, stop signs and so  
6 forth?

7 A. No, sir.

8 Q. Were there any stop signs in between?

9 A. No, sir, there weren't.

10 Q. Okay. There weren't.

11 A. But --

12 Q. Well, from the time you left Atlanta  
13 Highway all the way to the Eastern Boulevard,  
14 right?

15 A. Yes, sir.

16 Q. And then to the Northern Boulevard?

17 A. Yes, sir.

18 Q. There were no stop signs?

19 A. There's no stop signs on Atlanta Highway.

20 Q. There are no stop signs all the way up to  
21 Oliver Road?

22 A. No, sir.

23 Q. So you -- you did not -- you did not --  
24 you did not run into any stop signs from the time  
25 you left Arby's until the time that the other

1 A. I don't remember if he had or not.

2 Q. I'm going to show you something and see  
3 if that refreshes your recollection.

4 A. (Witness complies.)

5 Q. Have you had a second to look at it?

6 A. Yes, sir.

7 Q. Now, are you aware if he ran any stop  
8 signs during that pursuit, Officer Johnson?

9 A. Yes, sir.

10 Q. Where?

11 A. He ran one at Plantation Way and Gunter  
12 Parkway --

13 MR. DURANT: Judge, I'm going to  
14 object --

15 THE COURT: Wait -- wait just a  
16 minute. Is that a ticket --

17 (Bench conference was held.)

18 THE COURT: Sustain.

19 MR. POWELL: I just asked if it  
20 refreshed his recollection.

21 THE COURT: I'm sustaining the  
22 objection and disregard the last answer.

23 **REDIRECT EXAMINATION (continued)**

24 BY MR. POWELL:

25 Q. Are you aware that he was running stop

1 signs?

2 A. Yes, sir.

3 Q. Now, was he -- how -- do you have any  
4 estimates how fast he might have been going?

5 A. My truck tops out --

6 MR. DURANT: I'm going to object,  
7 Judge.

8 THE COURT: I'm -- based on his  
9 observations, I'm going to let him answer.

10 Q. Go ahead, Officer.

11 A. My vehicle has a governor on it at 98.5  
12 miles per hour. They were leaving me in this  
13 pursuit. Now, my pickup or my -- excuse me -- my  
14 Blazer does not have the pickup that the patrol  
15 units have when coming to a stop, start, slowing  
16 down, picking up speed, things like that. I was  
17 not able to maintain a speed with patrol units due  
18 to the fact of the forms of my vehicle. It's not  
19 made to engage in high speed situations.

20 MR. POWELL: Nothing else, Judge.

21 MR. DURANT: I don't have any other  
22 questions.

23 THE COURT: Okay. You can step down  
24 and you're excused.

25 THE WITNESS: Thank you, ma'am.

1 Q. You didn't see any --

2 A. No, I didn't see anything. It was dark  
3 out in the streets and all that, so --

4 Q. Now, once you got -- where -- where was  
5 it again you stopped the jeep?

6 A. Eventually he stopped at Hackle Drive.

7 Q. Did he voluntarily stop?

8 A. Um, we had -- there was a county unit  
9 that blocked him off up -- down the road, so I  
10 believe that's why he, you know, he realized he was  
11 blocked in, so he just pulled into a parking lot  
12 right there, so --

13 Q. And then what did you do?

14 A. Immediately, I drew my service weapon,  
15 and I ordered him to get out of the car.

16 Q. Did he comply?

17 A. Um, he started to -- initially, he paused  
18 for a few seconds. He didn't -- he didn't come out  
19 initially. I continued to holler at him to put his  
20 hands up.

21 Q. Now, let me stop you right there. Why  
22 did you draw your service weapon?

23 A. Because it -- because at that time -- by  
24 that time an alarm had gone out from Arby's and our  
25 dispatcher was telling us that an alarm has gone

1 out. And, also, by that time, the dispatcher has  
2 gotten in telephone contact with one of the clerks  
3 at Arby's, and they advised us that a robbery just  
4 occurred at the Arby's.

5 Q. Did you suspect the defendant might or  
6 may not be armed?

7 A. I suspected he was armed.

8 Q. And did you proceed accordingly?

9 A. Yes, sir, I did.

10 Q. Then what happened next?

11 A. After a few momentary seconds, he  
12 eventually complied and he opened the door. And,  
13 just as he did, the road that he was on was a  
14 gravel road and another officer came in. And when  
15 he hit the gravel, his car slid into the door of  
16 his white Jeep Cherokee and that slammed his door  
17 back shut. And then -- and then I continued to  
18 order him to come back out again, because he  
19 initially was coming out on his own.

20 Q. Now, was that intentional, the Officer --

21 A. No, it was unintentional. He just  
22 slammed into it and shut the door on him. So,  
23 again, I ordered him to come out of the car. And,  
24 as I --

25 Q. Was anyone hurt?

1           Q. So he was within the speed limit, you  
2 would say?

3           A. Yes, sir.

4           Q. And it was at that juncture that you and  
5 the other patrol officer got into a pursuit, right?

6           A. Yes, sir.

7           Q. And how long did the pursuit last in  
8 terms of blocks or miles, if you can?

9           A. Blocks or -- probably four or five miles  
10 maybe, several minutes.

11          Q. And did you come to a -- did you -- did  
12 you go through several stop signs?

13          A. Yes, sir, I believe we ran several stop  
14 signs, maybe two or three.

15          Q. Two or three?

16          A. Yes, sir.

17          Q. Did the jeep run those stop signs?

18          A. Yes.

19          Q. And about how fast was the jeep going  
20 then?

21          A. Um, at one point while we were on Gunter  
22 Loop Road, we probably hit excess -- excuse me --  
23 close to eighty to ninety miles per hour. Due to  
24 the turns -- the turns slowed us down a little bit  
25 before the stop sign. Then he probably took the